

#### IV. ELIGIBILITY FOR BENEFITS AND DISQUALIFICATION FROM BENEFITS

The Federal acts contain no requirements concerning eligibility and disqualification provisions except the labor standard provision, page 95. Each State establishes its requirements which an unemployed worker must meet to receive unemployment insurance. All State laws provide that, to receive benefits, a claimant must be able to work and must be available for work, i.e., he must be in the labor force, and his unemployment must be due to lack of work. He must also be free from disqualification for such acts as voluntary leaving without good cause, discharge for misconduct connected with the work, and refusal of suitable work. These eligibility and disqualification provisions delineate the risk which the laws cover: the able-and-available tests as positive conditions for the receipt of benefits week by week, and the disqualifications as a negative expression of conditions under which benefits are denied. The purpose of these provisions is to limit payments to workers unemployed primarily as a result of economic causes. The eligibility and disqualification provisions apply only to claimants who meet the qualifying wage and employment requirements discussed on pages 51-56.

In all States, claimants who are held ineligible for benefits because of inability to work, unavailability for work, or disqualification are entitled to a notice of determination and an appeal from the determination.

##### **Ability to Work**

The variations from State to State in the language setting forth the requirements concerning ability to work are minor. The addition of the words "physically able" or "mentally and physically able" in a few State laws has had no significant influence on the benefit decisions under the State laws.<sup>1</sup> One evidence of ability to work is the filing of claims and registration for work at a public employment office, required under all State laws.

Nine States (Alaska, Delaware, Hawaii, Idaho, Maryland, Montana, Nevada, Tennessee, and Vermont) have added a proviso that no claimant who has filed a claim and has registered for work shall be considered ineligible during an uninterrupted period of unemploy-

<sup>1</sup> Selected benefit decisions under the State laws are published monthly by the Bureau of Employment Security in *Benefit Series Service, Unemployment Insurance*, which may be purchased from the Superintendent of Documents, Government Printing Office, Washington 25, D.C., for \$4 per year.

ment because of illness or disability, so long as no work which is suitable, but for the disability, is offered and refused. In Nevada, the proviso is effective only if the claimant resides in that State. These provisions are not to be confused with the special programs in four States for temporary disability benefits (see ch. VI).

### **Availability for Work**

The availability-for-work provisions have become more varied than the ability-to-work provisions. Ten States provide that a claimant must be available for suitable work; eight States incorporate the concept of suitability for the individual claimant in terms of work in his usual occupation or for which he is reasonably fitted by training and experience (table 26). Delaware requires an involuntarily retired worker to be available only for work which is suitable for an individual of his age or physical condition; Connecticut and New Hampshire specify that women are not required to be available for work between the hours of 1 a.m. and 6 a.m. (see p. 97 for similar provision in Massachusetts).

Georgia specifies the conditions under which individuals on vacation are deemed unavailable and limits to 2 weeks in any calendar year the period of unavailability of individuals who are not paid while on a vacation provided in an employment contract or by employer-established custom or policy. In Nebraska and New Jersey no claimant is deemed unavailable for work solely because he is on vacation without pay if the vacation is not the result of his own action as distinguished from any collective action beyond his individual control. Michigan and West Virginia require that a claimant be available for full-time work; Alabama and Michigan, for work in a locality where his base-period wages were earned or in a locality where similar work is available; and Illinois, work in a locality where opportunities for work are substantially as favorable as those in the locality from which he has moved. Arizona requires that an individual be, at the time he files a claim, a resident of Arizona or of another State or foreign country that has entered into reciprocal arrangements with the State. In Wisconsin, where eligibility for benefits is determined separately, with respect to each employer in inverse chronological order, the inability and unavailability provisions are in terms of weeks for which a claimant is called upon by his current employer to return to work that is actually available, and weeks of inability to work or unavailability for work, if his separation was caused by his physical inability to do his work or his unavailability for work.

Availability for work, as well as ability to work, is evidenced by registration for work at a local employment office. Nonavailability may be evidenced by refusal of work, offered by the employment service or by a former employer, which the unemployment insurance offi-

cials consider suitable for the claimant (see p. 97). In addition, 28 State laws require that a claimant be actively seeking work or making a reasonable effort to obtain work. The Oregon requirement is in terms of "actively seeking and unable to obtain suitable work." In Ohio, Oklahoma, Vermont, and Wisconsin, the provision is not mandatory; the agency may require that the claimant, in addition to registering for work, make other efforts to obtain suitable work and give evidence of such efforts. The New Jersey law permits the director to modify the active search for work requirement when, in his judgment, such modification is warranted by economic conditions.

A determination that a claimant is unable to work or is unavailable for work applies to the time which he is giving notice of unemployment or for the period for which he is claiming benefits.

Special provisions relating to the availability of trainees and to the unavailability of students or of married or pregnant women are included in some State laws. The student, marital-obligation, and pregnancy provisions are discussed on pages 101-105 along with the special disqualification provisions included in other States for these groups.

To assist claimants who are unable to find work—especially those long unemployed because their skills are no longer in demand as a result of technological changes in industrial production—15 States have special provisions regarding availability for work during periods of training or retraining (table 26, footnote 4). Under these provisions an otherwise eligible claimant is deemed not unavailable while he is attending a training or retraining course approved or recommended by the employment security agency.

Massachusetts and Michigan, in addition to permitting payment of regular benefits while the claimant attends an industrial retraining or other vocational training course, provide extended benefits equal to 18 times his weekly benefit rate (see p. 74). The California, Illinois, Missouri, New York, and Rhode Island laws specify in detail the conditions for approval of the training. Illinois limits the payment of benefits during training to 8 weeks and to individuals who are not eligible for subsistence payments or similar assistance under any public or private retraining program. California and Missouri suspend payments to an individual for any week with respect to which he is entitled to receive retraining benefits as a result of the State's participation in a Federal program providing for the payment of such benefits.

Ohio considers an individual available for work while attending a vocational training course approved by the Ohio work training committee if the employment security agency recommends such attendance; however, the claimant is required to seek and accept suitable work that will not interfere with the training. North Dakota permits

a finding of availability for work during a period of vocational training in a program maintained by a Federal, State, or other public agency; Pennsylvania, during attendance of a training or retraining course approved by the department of labor and industry "as meeting a suitable and realistic employment or reemployment objective of the employee"; and West Virginia, during training as part of an area vocational program, or similar program, which has as its object the training of unemployed individuals in new occupational skills.

The District of Columbia law disqualifies an individual under 21 years of age if he fails, without good cause, to accept an agency recom-

Table 26.—Ability to work, availability for work, and seeking work requirements

State	Able to work and available for—			Actively seeking work (28 States)	State	Able to work and available for—			Actively seeking work (28 States)
	Work (34 States)	Suitable work (10 States)	Work in usual occupation or for which reasonably fitted (8 States)			Work (34 States)	Suitable work (10 States)	Work in usual occupation or for which reasonably fitted (8 States)	
Alabama			<sup>1</sup> X		Montana <sup>2</sup>	X			X
Alaska <sup>3</sup>		<sup>4</sup> X			Nebraska	<sup>4</sup> X			
Arizona	X				Nevada <sup>5</sup>	X			
Arkansas		X		X	New Hampshire		X		
California	<sup>4</sup> X			X	New Jersey	<sup>1</sup> X			X
Colorado		X		X	New Mexico	X			X
Connecticut	X			X	New York			<sup>4</sup> X	
Delaware <sup>2</sup>	X				North Carolina	X			X
District of Columbia	<sup>4</sup> X				North Dakota		<sup>4</sup> X		X
Florida	X				Ohio		<sup>4</sup> X		<sup>1</sup> X
Georgia	<sup>4</sup> X			<sup>6</sup> X	Oklahoma	X			<sup>1</sup> X
Hawaii <sup>2</sup>	X				Oregon	X			X
Idaho <sup>1</sup>		<sup>4</sup> X		X	Pennsylvania		<sup>4</sup> X		
Illinois	<sup>4</sup> X			X	Puerto Rico		X		
Indiana	X			X	Rhode Island	<sup>4</sup> X			
Iowa	X			X	South Carolina	X			
Kansas	X			X	South Dakota	X			
Kentucky		X		X	Tennessee <sup>2</sup>	X			
Louisiana	X				Texas	X			
Maine			X	X	Utah	<sup>4</sup> X			
Maryland <sup>1</sup>	X			<sup>1</sup> X	Vermont <sup>2</sup>	X			<sup>1</sup> X
Massachusetts			<sup>4</sup> X		Virginia	X			
Michigan			<sup>1</sup> X	X	Washington			X	X
Minnesota	X				West Virginia			<sup>4</sup> X	
Mississippi	X				Wisconsin			X	<sup>1</sup> X
Missouri	<sup>4</sup> X			X	Wyoming	X			X

<sup>1</sup> In locality where base-period wages were earned or work for which claimant qualifies is available.

<sup>2</sup> Claimants are not ineligible if unavailable because of illness or disability occurring after filing claim and registering for work if no offer of work that would have been suitable at time of registration is refused after beginning of such disability; in Nevada provision applies only to claimants residing in the State.

<sup>3</sup> Intrastate claimants are not ineligible if unavailability is caused by noncommercial fishing and hunting necessary for survival if no suitable work is offered (Alaska); not applicable to persons unavailable 1 or 2 workdays due to death in family, or unlawful detention (California).

<sup>4</sup> Not applicable to individual attending approved industrial retraining course or other vocational training (see text for details).

<sup>5</sup> Requirement not applicable to persons 60 or over who have been furloughed and/or subject to recall. Requirement may be waived for persons unemployed because of plant shutdown of 3 weeks or less if conditions justify (Maryland). Requirement not applicable to person on involuntary vacation without pay (Georgia, Nebraska, and New Jersey; see text).

<sup>6</sup> And is bona fide in the labor market.

<sup>7</sup> Receipt of non-service-connected total disability pension by a veteran at age 65 or more does not of itself preclude ability to work.

<sup>8</sup> Not mandatory.

mentation that he attend a free vocational or other school. Idaho, Nebraska, and Utah, which have special provisions under which students are deemed ineligible for benefits, have modified these provisions to allow the payment of benefits to otherwise eligible individuals who are undergoing training approved or recommended by the employment security agency.

### **Disqualification From Benefits**

The major causes of disqualification from benefits are voluntary separation from work, discharge for misconduct, refusal of suitable work, and unemployment due to a labor dispute. In all States disqualification results in at least a postponement of benefits for 1 or more weeks in addition to any required waiting period; in some States it involves also a cancellation of benefit rights or a reduction of benefits otherwise payable. Unlike the status of unavailability for work or inability to work, which is terminated as soon as the condition changes, disqualification means that benefits are denied for a definite period specified in the law, or set by the administrative agency within time limits specified in the law, or for the duration of the period of unemployment. Frequently the disqualification lasts for the duration of the benefit year or longer.

The disqualification period is usually for the week of the disqualifying act and a specified number of consecutive calendar weeks following. Exceptions in which the weeks must be weeks following registration for work or meeting some other requirement are noted in tables 27-29. The theory of a specified period of disqualification is that, after a time, the reason for a worker's continued unemployment is due, more to the general condition of the labor market than to his disqualifying act. The time for which the disqualifying act is considered the reason for a worker's unemployment varies among the States and among the causes of disqualification. It varies from 3 weeks, in addition to the week of occurrence, in several States to 10-32½ weeks in Colorado. In three States the maximum disqualification period for one or more causes may be as long as the maximum duration of benefits. A number of States have a different theory for the period of disqualification. They disqualify for the duration of the unemployment or longer by requiring a specified amount of work or wages to requalify, or by canceling a disqualified worker's wage credits. These States are shown in tables 27-29. The provisions will be discussed in consideration of the disqualifications for each cause.

Nineteen States follow the same pattern for disqualifications for voluntary leaving, discharge for misconduct, and refusal of suitable work. In States with provisions of different severity for the different causes, discharge for misconduct is most often the cause with the heaviest penalty.

The provisions for postponement of benefits and cancellation of benefits must be considered together to understand the full effect of disqualification. Disqualification for the duration of the unemployment may be a slight or a severe penalty for an individual claimant, depending upon the duration of his unemployment which, in turn, depends largely upon the general condition of the labor market. When cancellation of the benefit rights based on the work left is added, as in Alabama, Michigan, and Wisconsin, the severity of the disqualification depends mainly upon the duration of the work left and the presence or absence of other wage credits. Disqualification for the duration of the unemployment and cancellation of all prior wage credits, as in Iowa and Nebraska, tend to put the claimant out of the system. If the wage credits canceled extend beyond the base period for the current benefit year, cancellation extends into a second benefit year immediately following.

In Michigan, where cancellation of wage credits with the employer from whom a claimant was separated under disqualifying conditions may deny all benefits for the remainder of the benefit year, the claimant may become eligible again for benefits without waiting for his benefit year to expire. See table 16, footnote 2, for the provision permitting cancellation of the current benefit year and establishment of a new benefit year. Although this provision permits a claimant to draw benefits sooner than he otherwise could, he would be eligible in the new benefit year generally for a lower weekly benefit or shorter duration, or both, because part of the earnings in the period covered by the new base period would already have been canceled or used for computing benefits in the canceled benefit year.

### **Disqualification for Voluntarily Leaving Work**

In a system of benefits to compensate in part for wage loss due to lack of work, voluntarily leaving work without good cause is an obvious reason for disqualification from benefits. All States have such a disqualification provision.

*Good cause for voluntary leaving.*—In all States a worker who leaves his work voluntarily must have good cause (in Ohio, "just cause" and in Pennsylvania, "cause of a necessitous and compelling nature") if he is not to be disqualified. In New Hampshire "good cause" need not be shown if the claimant, within 4 weeks, left work that was not suitable. In 30 States, the general "good cause" provision includes good personal cause. In 22 States (table 27) good cause is restricted to good cause connected with the work or attributable to the employer, or, in West Virginia, involving fault on the part of the employer. Connecticut, Louisiana, and Montana disqualify for involuntary as well as voluntary leaving; in Connecticut an exception is made if leaving is beyond the claimant's control, solely

by reason of governmental regulation or statute, or if leaving is to return to regular apprenticeable trade or regular work, upon recall. In Alabama, Ohio, and Tennessee the disqualification does not apply to voluntary leaving to join the Armed Forces.

In nine States more substantial modifications are made. The Alabama law includes two exceptions to "good cause connected with such work": If the claimant was forced to leave work because he was sick or disabled, and he notified the employer as soon as reasonably practicable and returned and offered himself for work as soon as he was again able to work; or if the claimant left his employment and immediately took another job (except self-employment) and remained in it at least 10 weeks, provided he did not leave his new employment voluntarily without good cause connected with the work. Exceptions are made under the Arkansas law for a claimant who makes a reasonable effort to preserve his job rights if he left because of illness, injury, disability, or personal emergency. Delaware exempts from disqualification a claimant who left work because of illness if he is able to work and is available for work when he claims benefits. Tennessee exempts from disqualification, a claimant who left work because of his own personal injury or serious illness, evidence of which is supported by medical proof.

The Iowa law includes six exceptions to "good cause attributable to the employer": If the claimant left solely to accept better employment and remained in it at least 6 weeks; if he left temporary work to return to his regular employer, having notified his temporary employer that he would do so as soon as work was available on his regular job; if he left solely to care for a member of his family who was ill, and he offered his services as soon as the relative recovered; if he left work, upon the advice of a doctor because of personal illness or injury, notified his employer but when he returned after recovery, his regular or comparable work was not available; if he left work to move a member of his family to a different climate, upon the advice of a doctor (during which absence he is unavailable) notwithstanding he obtains temporary employment, after which, his regular or comparably suitable work is not available; or if he left work for compelling personal reasons, not to exceed 10 days unless extended by employer, and his regular or comparably suitable work was not available when he returned, immediately after such compelling reasons ceased. The Minnesota law has three similar provisos: If the claimant left to accept new work in accordance with war manpower policies or to accept substantially better work, or because of serious illness. The Missouri law does not disqualify a claimant who left work to accept a more remunerative job and earned some wages therein, or left temporary work to return to his regular employer. The Wisconsin law includes, in addition to good cause attrib-

Table 27.—Disqualification for voluntary leaving, good cause and disqualification imposed

State	Good cause restricted <sup>1</sup> (22 States)	Benefits postponed <sup>2</sup>			Benefits reduced or canceled <sup>3</sup> (16 States)
		For specified number of weeks <sup>4</sup> (15 States)	For variable number of weeks <sup>4</sup> (20 States)	For duration of unemployment <sup>5</sup> (19 States)	
Alabama.....	<sup>1</sup> X			X <sup>7</sup>	Benefit rights based on any work left canceled.
Alaska.....		W+5			
Arizona.....	X	W+4			4 weeks.
Arkansas.....	<sup>1</sup> X	8 <sup>4</sup>			
California.....		5 <sup>4</sup>			
Colorado.....			10-32 <sup>4</sup> <sup>11</sup>		Equal. <sup>8</sup>
Connecticut.....	<sup>1</sup> X	W+4			
Delaware.....	<sup>1</sup> X			X	
District of Columbia.....			W+4-9		Equal.
Florida.....			W+1-12 <sup>9</sup>	+10 x wba <sup>6</sup>	
Georgia.....	<sup>1</sup> X		5-9 <sup>4</sup> <sup>11</sup>		Equal. <sup>8</sup>
Hawaii.....			W+2-7		
Idaho.....				+8 x wba	
Illinois.....		W+6 <sup>4</sup>		+6 x wba <sup>6</sup>	
Indiana.....				+10 x wba	
Iowa.....	<sup>1</sup> X			+qualifying wages.	Benefit rights based on any work left canceled.
Kansas.....		W+6 <sup>11</sup>			
Kentucky.....			6-16		
Louisiana.....	X			+10 x wba <sup>8</sup>	
Maine.....	X			+15 x wba	
Maryland.....			W+1-9		
Massachusetts.....			4-10 <sup>4</sup> <sup>10</sup>		
Michigan.....	X			X <sup>7</sup>	Benefit rights based on any work left canceled. <sup>10</sup>
Minnesota.....	<sup>1</sup> X		3-7 <sup>4</sup>		
Mississippi.....				+8 x wba	
Missouri.....	<sup>1</sup> X			+10 x wba <sup>4</sup>	
Montana.....	X		1-5		
Nebraska.....			W+1-5		
Nevada.....			W+1-15		
New Hampshire.....	<sup>1</sup> X			+3 weeks in covered work at wages of wba and \$3.	
New Jersey.....	X			+4 x wba	
New Mexico.....			W+1-13		Equal.
New York.....				+3 days work in each of 4 weeks or \$200.	
North Carolina.....	X		4-12 <sup>4</sup>		Equal.
North Dakota.....			1-8 <sup>4</sup>		
Ohio.....				+ wba in covered work.	
Oklahoma.....	X	7 <sup>4</sup>			
Oregon.....				+4 weeks work at weekly wages equal to wba. <sup>11</sup>	
Pennsylvania.....				+8 x wba	
Puerto Rico.....		W+3			
Rhode Island.....				+4 weeks work with minimum weekly wages of \$20.	
South Carolina.....			1-5 <sup>4</sup> <sup>11</sup>		Optional equal.
South Dakota.....			1-5 <sup>4</sup>		Equal.
Tennessee.....	<sup>1</sup> X	W+4			5 weeks.
Texas.....	X		1-26 <sup>4</sup>		Equal.
Utah.....			W+1-5 <sup>4</sup>		
Vermont.....	X		2-9 <sup>4</sup> <sup>11</sup>		
Virginia.....		7			Equal.
Washington.....		W+5			
West Virginia.....	X	W+6			6 weeks. <sup>10</sup>
Wisconsin.....	<sup>1</sup> X	W+4		( <sup>7</sup> )	Benefit rights based on any work left canceled. <sup>10</sup>
Wyoming.....		W+3			

<sup>1</sup> Good cause restricted to that connected with the work, attributable to the employer or involving fault on the part of the employer. In New Hampshire, by regulation.

<sup>2</sup> See text for exceptions in States footnoted.

(Footnotes continued on page 89)



utable to the employer, leaving for compelling personal reasons and to take another job. The Georgia commissioner may waive the disqualification if the claimant, after giving notice, left his work to accept a better job and remained in such job for a reasonable time thereafter.

In most States disqualification is based on the circumstances of separation from the *most recent* employment. Laws of these States provide this disqualification in terms of such language as the individual will be disqualified if he "has left his *most recent* work voluntarily without good cause" or the individual will be "disqualified for the week in which he has left work voluntarily without good cause, if so found by the commission, and for the [specified number of] weeks which *immediately* follow such week." Most States with the latter provision interpret that any bona fide employment in the period specified terminates the disqualification, but some States interpret the provision to continue the disqualification until the end of the period specified, regardless of intervening employment. In a few States the agency looks to the causes of all separations within the disqualification period.

Michigan and Wisconsin, which compute benefits separately for each employer to be charged, consider the reason for separation from each employer when his account becomes chargeable. The following States have specific provisions that a potentially disqualifying act which happened within the period specified must be taken into consideration: Colorado, Louisiana, and South Dakota, from the beginning of the base period; Georgia, within 52 weeks preceding a claim;

(Footnotes for Table 27)

<sup>1</sup> By statute, benefits postponed and/or reduced or canceled for other than last separation as indicated: from the beginning of the base period (Colorado, Louisiana, and South Dakota); within specified periods preceding a claim, 52 weeks (Georgia), 1 year (Missouri). See footnote 6 and text.

<sup>2</sup> Unless otherwise indicated in States noted, "W+" means week of occurrence plus indicated number of weeks following. Disqualification period begins with: week following separation (Colorado); week for which a claim is filed (Georgia, Massachusetts, North Dakota, Oklahoma, South Carolina, and Vermont); unless the claimant has bona fide employment after separation (Illinois and Utah); week following filing of claim (Texas). Weeks of disqualification must be weeks in which the claimant is otherwise eligible (Illinois); is otherwise eligible or earns wages equal to his weekly benefit amount (Arkansas and Minnesota); weeks in which the claimant meets reporting and registration requirements (California); weeks for which claim is filed within the current benefit year and following benefit year if it begins within 12 months after the current year (North Carolina); weeks of otherwise compensable unemployment (South Dakota). See also footnote 7.

<sup>3</sup> Figures show minimum employment or wages required to qualify for benefits.

<sup>4</sup> "Equal" indicates a reduction equal to the weekly benefit amount multiplied by the number of weeks of disqualification. "Optional" indicates reduction at the discretion of the agency.

<sup>5</sup> If the separating employer was the only base-period employer, cancellation results in disqualification for at least the remainder of the benefit year (Alabama, Iowa, and Michigan); or for at least the duration of the unemployment (Wisconsin).

<sup>6</sup> Agency may add 1-8 weeks more for successive disqualifications.

<sup>7</sup> State counted in 2 columns. See text for explanation of 2 disqualification periods.

<sup>8</sup> If individual left to accept permanent full-time work with another employer: Disqualification is reduced by the number of weeks in new work subsequent to leaving, and no disqualification is imposed if he became separated from such new work for good cause attributable to new employing unit (Massachusetts); benefit rights are restored if he is laid off for lack of work by the new employer within 39 weeks or, if he left to return to a former employer in response to a recall, benefit credits are transferred to recalling employer and cancellation does not apply (Michigan). Deduction recredited if individual returns to covered employment for 30 days during benefit year (West Virginia). Benefit rights not canceled if leaving was due to assignment to work at less than  $\frac{3}{4}$  immediately preceding wage rate (Wisconsin).

<sup>9</sup> 1 to 10 weeks, if voluntary leaving is without good cause but under extenuating circumstances (Colorado); duration of unemployment and earnings of 8 times weekly benefit amount, if voluntarily retired (Kansas and South Carolina), to receive pension (Georgia); 8 weeks, if claimant has met availability and registration requirements in all weeks and is unable to find suitable work (Oregon); 1-6 weeks if health prevents discharging duties required (Vermont).

Missouri, within a year preceding a claim. Alabama and Iowa which cancel benefit rights based on any work left under disqualifying circumstances, not just most recent work left, take into consideration all separations since the beginning of the base period.

*Period of disqualification.*—In 15 States the period of disqualification for voluntary leaving is a specified number of weeks; in 20 States, a variable number of weeks; in 19 States, for the duration of the unemployment or longer.

Florida provides 2 periods of disqualification, 1 to 12 weeks and for the full period of unemployment until the worker has earned wages equal to 10 times his weekly benefit. The latter provision would be controlling if the claimant was long unemployed; the specific number of weeks would control if he obtained employment and had again become unemployed before the end of his disqualification period. In Illinois the period limited to 6 weeks applies to a claimant who had wages in at least 3 calendar quarters of his base period; for a claimant with wages in only 2 quarters, the period is extended until he is reemployed and has earned equal to six times his weekly benefit. In 16 of the States with disqualification for the duration of the unemployment, including Florida and Illinois, the law specifies the period of employment or the amount of wages necessary to requalify for benefits (table 27).

*Cancellation of benefit rights.*—In 16 States, in addition to the postponement of benefits, benefit rights are canceled or reduced, usually to the extent of the disqualification imposed. In Alabama and Iowa benefits based upon the employment which the worker left are canceled; if the worker had no other employers after the beginning of the base period, this cancellation would result in disqualification not only for the duration of the unemployment but also for the remainder of the benefit year and until the worker had enough subsequent employment to qualify for a second benefit year. However, if he had had other base-period employers, he might be eligible without delay for benefits based on his wages with them. In Michigan and Wisconsin, where benefits are computed separately for each employer in inverse chronological order, all benefit rights earned with the employer concerned in the determination are canceled in cases of voluntarily leaving without good cause. In addition Wisconsin postpones for 4 weeks benefit rights earned with earlier employers. In Michigan disqualification is for the duration of the unemployment but, if the worker left to accept permanent full-time work with another employer, his canceled wage credits are restored if he is laid off by the new employer within 39 weeks following such separation; if he left, in response to a recall, to return to work with an employer for whom he had worked during the preceding 52 weeks his credit

weeks are not canceled. In West Virginia reemployment in a benefit year cancels the reduction of benefit rights imposed with the disqualification.

The disqualifications imposed for voluntary leaving without good cause may be summarized as follows:

<i>Provision</i>	<i>Number of States<sup>1</sup></i>
<b>All States</b> -----	<b>52</b>
No reduction of benefit rights-----	36
Reduction of benefit rights-----	16
<b>Maximum period of 6 weeks or less</b> -----	<b>14</b>
No reduction of benefit rights-----	9
Reduction of benefit rights-----	5
<b>Maximum period of more than 6 weeks</b> -----	<b>19</b>
No reduction of benefit rights-----	11
Reduction of benefit rights-----	8
<b>Disqualification for the duration of unemployment or longer</b> -----	<b>19</b>
No reduction of benefit rights-----	16
Reduction of benefit rights-----	3

<sup>1</sup> Counting Florida and Illinois in the unlimited group; see table 27.

*Relation to availability provisions.*—A claimant who is not disqualified for leaving work voluntarily because he left with good cause is not necessarily eligible to receive benefits. If he left because of illness or to take care of illness in the family, he may not be able to work or be available for work. In most States his ineligibility for benefits would extend only until he was able to work or was available for work, rather than for the fixed period of disqualification for voluntary leaving.

#### **Discharge for Misconduct Connected With the Work**

The provisions for disqualification for discharge for misconduct follow a pattern similar but not identical to that for voluntary leaving. There is more tendency to provide disqualification for a variable number of weeks "according to the seriousness of the misconduct." In addition, 21 States provide for heavier disqualification in the case of discharge for a dishonest or a criminal act, or other acts of aggravated misconduct.

Some of the State laws define misconduct in the law in such terms as "willful misconduct" (Connecticut and Pennsylvania); "deliberate misconduct in willful disregard of the employing unit's interest" (Massachusetts); and "failure to obey orders, rules or instructions or the failure to discharge the duties for which he was employed" (Georgia). Kentucky provides that "legitimate activity in connection with labor organizations or failure to join a company union shall not be construed as misconduct." Detailed interpretations of what constitutes misconduct have been developed in each State's benefit decisions.

Disqualification for discharge for misconduct, as that for voluntary leaving, is usually based on the circumstances of separation from the

Table 28.—Disqualification for discharge for misconduct

State	Benefits postponed <sup>1</sup>			Benefits reduced or canceled <sup>1</sup> (15 States)
	For specified number of weeks <sup>2</sup> (15 States)	For variable number of weeks <sup>2</sup> (26 States)	For duration of unemployment <sup>2</sup> (13 States)	
Alabama <sup>3</sup>		W+3-6		Equal.
Alaska <sup>4</sup>	W+5			
Arizona	W+4			4 weeks.
Arkansas <sup>5</sup>	8 <sup>2</sup>			
California	5 <sup>2</sup>			
Colorado <sup>6</sup>		1-10 <sup>1</sup>		Equal.
Connecticut	W+4			
Delaware			X	
District of Columbia		W+4-9		Equal.
Florida		W+1-12 <sup>1</sup>	10 x wba <sup>1</sup>	
Georgia <sup>6</sup>		5-11 <sup>1</sup>		Equal.
Hawaii		W+2-7		
Idaho			+8 x wba	
Illinois <sup>6</sup>	W+6 <sup>2</sup>		+6 x wba <sup>8</sup>	
Indiana <sup>5</sup>			+10 x wba	
Iowa		4-9 <sup>1</sup>		Equal.
Kansas <sup>5</sup>	W+6			
Kentucky <sup>5</sup>		6-16		
Louisiana <sup>5</sup>			+10 x wba <sup>1</sup>	
Maine <sup>4</sup>			+20 x wba	
Maryland <sup>5</sup>		W+1-9		
Massachusetts <sup>6</sup>		4-10 <sup>2</sup>		
Michigan <sup>6</sup>			X	Benefit rights based on any work involved canceled. <sup>9</sup>
Minnesota		3-7 <sup>2</sup>		
Mississippi		W+1-12		
Missouri <sup>5</sup>		1-8 <sup>1</sup>		
Montana <sup>5</sup>		1-9		
Nebraska <sup>5</sup>		W+1-5		
Nevada		W+1-15		
New Hampshire <sup>5</sup>	W+3			3 weeks.
New Jersey	W+5			
New Mexico		W+1-13		Equal.
New York <sup>6</sup>			+3 days work in each of 4 weeks or \$200.	
North Carolina <sup>7</sup>		5-12 <sup>2</sup>		Equal.
North Dakota <sup>5</sup>		1-11 <sup>2</sup>		
Ohio <sup>5</sup>			+wba in covered work.	
Oklahoma	7 <sup>2</sup>			
Oregon <sup>5</sup>			+4 weeks work at weekly wages equal to wba. <sup>10</sup>	
Pennsylvania <sup>6</sup>			+8 x wba	
Puerto Rico	W+3			
Rhode Island		W+3-10		
South Carolina <sup>5</sup>		5-22 <sup>2</sup>		
South Dakota <sup>6</sup>		1-10 <sup>1</sup>		Equal.
Tennessee <sup>6</sup>	W+4			Equal.
Texas		1-26 <sup>2</sup>		Equal.
Utah <sup>5</sup>		W+1-9		
Vermont		6-12 <sup>2</sup>		
Virginia		7-11		Equal.
Washington <sup>6</sup>	W+5			
West Virginia			+30 days in covered work.	
Wisconsin <sup>6</sup>	W+3		( <sup>9</sup> )	Benefit rights based on any work involved canceled. <sup>9</sup>
Wyoming	W+3			

<sup>1</sup> By statute, benefits postponed and/or reduced or canceled for other than last separation as indicated: from the beginning of the base period (Colorado, Iowa, Louisiana, and South Dakota); within specified periods preceding a claim 52 weeks (Georgia), 1 year (Missouri). See footnote 9 and text, p. 85.

<sup>2</sup> Unless otherwise indicated in States noted, "W+" means week of occurrence plus indicated number of weeks following. Disqualification period begins with: Week for which a claim is filed (Georgia, Massachusetts, North Dakota, Oklahoma, South Carolina, Tennessee, and Vermont), unless the claimant has bona fide employment after separation (Illinois); week following filing of claim (Texas). Weeks of disqualification must be weeks in which the claimant is otherwise eligible (Illinois); is otherwise eligible or earns wages equal to his weekly benefit amount (Arkansas and Minnesota); weeks in which the claimant meets reporting and registration requirements (Missouri); weeks for which claim is filed within the current benefit year and following benefit year if it begins within 12 months after the current year (North Carolina); weeks of otherwise compensable unemployment (South Dakota). See also footnote 7.

<sup>3</sup> Figures show minimum employment or wages required to qualify for benefits.

(Footnotes continued on page 93)

most recent employment. As indicated in table 28, however, in eight States the statute requires consideration of the reasons for separation from employment other than the most recent.

*Period of disqualification.*—Twenty-six States have a variable disqualification for discharge for misconduct (table 28). In some, the range is small, e.g., 3 to 6 weeks in Alabama and 1 to 5 weeks in Nebraska; in some States the range is large, e.g., 5 to 22 weeks in South Carolina and 1 to 26 weeks in Texas. Fifteen States provide flat disqualification and 13 States, including Florida and Illinois with the two disqualification periods described on page 90, disqualify for the duration of the unemployment or longer.

Fifteen States cancel all or some of the claimant's benefit rights.

Fifteen States provide for disqualification for disciplinary suspensions as well as for discharge for misconduct. Seven States provide the same disqualification for both causes. In the other eight States the disqualification differs as indicated in footnote 6 of table 28.

*Disqualification for gross misconduct.*—Twenty-one States have special provisions for what may be called aggravated misconduct. Heavier disqualifications are imposed for dishonest or criminal acts or for "gross, flagrant, willful, and unlawful misconduct" or for "forgery, larceny or embezzlement" or for "arson, intoxication, sabotage or dishonesty."

In Alabama a claimant, discharged for a dishonest or a criminal act in connection with his work, is disqualified for the duration of his unemployment and his wage credits with the discharging employer are canceled. Arkansas disqualifies a claimant, discharged for dishonesty, intoxication, or willful violation of safety rules, for the duration of his unemployment and until he has had 10 weeks of work in each of which his earnings equaled his weekly benefit amount. Colorado disqualifies an individual for 10 to 32½ weeks, with equal reduction of benefit rights for the theft from employer, or other crimes committed while on duty, assault and battery upon employer or other fellow workers, drunkenness on the job, willful neglect or damage to

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(Footnotes for Table 28)

\* "Equal" indicates a reduction equal to the weekly benefit amount multiplied by the number of weeks of disqualification.

† State imposes heavier disqualification for aggravated, dishonest, or criminal conduct. See text.

‡ Same disqualification applies to suspension as well as discharge for misconduct (Alaska, Georgia, Maryland, Missouri, Pennsylvania, South Dakota, and Washington); claimant disqualified for first 4 weeks he is suspended as disciplinary measure or for misconduct (Alabama); claimant disqualified for week of suspension for misconduct and up to 5 weeks (Indiana); claimant disqualified for first 10 weeks he is suspended as discipline for violation of established rules or regulations of the employing unit (Massachusetts); each week of suspension based upon misconduct connected with his work (Michigan and Ohio); each week of suspension of not more than 2 weeks (New Hampshire); each week of a suspension of not more than 30 days (North Dakota); each week he is suspended for misconduct or for loss, due to his own fault, of license legally required in his work and the first 3 weeks of suspension for other good cause (Wisconsin).

§ Agency may add 1-8 weeks more for successive disqualification.

¶ State counted in two columns. See text for explanation of 2 disqualification periods.

‡ If separating employer was only base-period employer, cancellation results in disqualification for at least the remainder of the benefit year (Michigan), or for at least the duration of the unemployment (Wisconsin).

§ 8 weeks, if claimant has met availability and registration requirements in all weeks and is unable to find suitable work.

employers' property or interest. In Kentucky a claimant who is discharged for dishonesty in connection with his work is disqualified for the duration of his unemployment; in Maine, if he is convicted of a felony or misdemeanor in connection with his work, he is disqualified until he earns \$400. In Ohio, if an individual is discharged by a base-period employer or from his most recent work for dishonesty in connection with his work and the dishonesty is admitted by the individual or results in his conviction, all wage credits earned with the employer involved are canceled. In Utah a claimant is disqualified for a year if the dishonesty constitutes a crime, which he admitted or of which he was convicted.

A Louisiana claimant discharged for misconduct that has impaired the rights, property, or reputation of a base-period employer or a Maryland claimant discharged for gross misconduct is disqualified for the duration of his unemployment and until he has earned wages equal to 10 times his weekly benefit amount. In addition, Louisiana cancels benefit rights based on wages from such employer. The Missouri agency may cancel all or part of an individual's wage credits earned with an employer who discharged him for aggravated misconduct; and the South Carolina agency may reduce the total weeks of benefits due by the number of weeks for which the claimant was disqualified. The most usual penalty (Illinois, Indiana, Nebraska, North Carolina, Oregon, and Tennessee) is cancellation of all wage credits if the claimant is discharged for gross misconduct or admits or is convicted of an unlawful act in connection with his work. New York disqualifies an individual for 1 year following loss of employment (whether or not the most recent employment prior to filing claim) as a result of an act constituting a felony in connection with such employment, if he is convicted or signs a statement admitting the act. Montana provides a 1-year disqualification for gross misconduct involving a criminal act, that is connected with the work or committed on the employer's premises and which the individual has admitted or of which he has been convicted.

The Kansas and New Hampshire laws provide for two degrees of gross misconduct. Kansas disqualifies an individual for the duration of his unemployment and until he earns eight times his weekly benefit amount if he is discharged for gross misconduct involving intentional, willful, or wanton disregard of the employer's interest. If, however, he is charged with a felony, as a result of such misconduct, all benefit rights based on wages paid prior to the date of the charges are canceled, but they are restored if the charge is dismissed or the individual is acquitted. In New Hampshire a discharge for arson, sabotage, felony, or dishonesty cancels all prior wage credits; discharge for intoxication which interferes with work postpones benefits from 4 to 26 weeks.

The disqualifications imposed for discharge for misconduct and discharge for aggravated misconduct are summarized below:

Provision	Number of States <sup>1</sup> with specified provision for—	
	Misconduct	Aggravated misconduct
All States.....	52	21
With no reduction of benefit rights.....	37	4
With reduction of benefit rights.....	15	17
Maximum period 6 weeks or less.....	12	0
With no reduction of benefit rights.....	8	0
With reduction of benefit rights.....	4	0
Maximum period limited but over 6 weeks.....	29	3
With no reduction of benefit rights.....	20	0
With reduction of benefit rights.....	9	3
Disqualification for the duration of unemployment or longer.....	11	18
With no reduction of benefit rights.....	10	4
With reduction of benefit rights.....	1	14

<sup>1</sup> Counting Florida and Illinois in the unlimited group; see table 28.

### Disqualification for a Refusal of Suitable Work

Disqualification for a refusal of work is provided in all State laws with diverse provisions concerning the extent of the disqualification imposed, smaller differences in the factors to be considered in determining whether work is suitable or the worker has good cause for refusing it, and practically identical statements concerning the conditions under which "new work" may be refused without disqualification. To protect labor standards the Federal Unemployment Tax Act provides that no State law will be approved so that employers may credit their State contributions against the Federal tax, unless the State law provides that:

Compensation shall not be denied in such State to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (A) If the position offered is vacant due directly to a strike, lockout, or other labor dispute; (B) if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; (C) if as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

*Criteria for suitable work.*—In addition to these mandatory minimum standards, most State laws list certain criteria by which the suitability of a work offer is to be tested. The usual criteria are the degree of risk to a claimant's health, safety, and morals; his physical fitness and prior training, experience, and earnings; the length of his unemployment, and his prospects for securing local work in his customary occupation; and the distance of the available work from his residence. However, Alabama and West Virginia specifically provide

Table 29.—Disqualification for refusal of suitable work

State	Benefits postponed <sup>1</sup>			Benefits reduced or canceled <sup>4</sup> (16 States)
	For specified number of weeks <sup>2</sup> (15 States)	For variable number of weeks <sup>2</sup> (22 States)	For duration of unemployment <sup>2</sup> (16 States)	
Alabama.....		6-10 <sup>1</sup>		Equal. <sup>1</sup>
Alaska.....	W+5			
Arizona.....		W+1-5		
Arkansas.....	8 <sup>2</sup>			
California.....		2-10 <sup>2</sup>		Equal. Optional 1-3 weeks. Equal.
Colorado.....		1-10		
Connecticut.....	W+4			
Delaware.....			X	
District of Columbia.....		W+4-9		Equal. Optional 1-3 weeks. Equal.
Florida.....		W+1-5 <sup>7</sup>	+10 x wba <sup>7</sup>	
Georgia.....		5-9 <sup>1</sup>		
Hawaii.....		W+2-7		
Idaho.....			+8 x wba	Wage credits prior to refusal canceled. <sup>6</sup>
Illinois.....	W+6 <sup>2</sup>			
Indiana.....			+10 x wba	
Iowa.....			+wages to requalify <sup>6</sup>	
Kansas.....	W+6			Optional 1-4 weeks. Benefit rights based on prior work for employer canceled. <sup>1</sup>
Kentucky.....		1-16		
Louisiana.....			+10 x wba	
Maine.....			+15 x wba	
Maryland.....		W+1-10		Optional 1-4 weeks. Benefit rights based on prior work for employer canceled. <sup>1</sup>
Massachusetts.....		W+1-4		
Michigan.....			X	
Minnesota.....	W+3 <sup>2</sup>			
Mississippi.....		W+1-12		Wage credits prior to refusal canceled. <sup>1</sup>
Missouri.....			+10 x wba <sup>1</sup>	
Montana.....		W+1-5		
Nebraska.....			+wages to requalify <sup>6</sup>	
Nevada.....		W+1-15		Equal.
New Hampshire.....	W+3			
New Jersey.....	W+3			
New Mexico.....		W+1-13		
New York.....			+3 days work in each of 4 weeks or \$200.	Equal.
North Carolina.....		4-12 <sup>1</sup>		
North Dakota.....		W+1-7		
Ohio.....			+wba in covered work.	
Oklahoma.....	W+6			Optional 1-5 weeks. Equal. Equal. <sup>9</sup> Equal. <sup>1</sup>
Oregon.....			+4 weeks work and 4 x wba. <sup>11</sup>	
Pennsylvania.....			X	
Puerto Rico.....	W+3			
Rhode Island.....	W+5			Optional 1-5 weeks. Equal. Equal. <sup>9</sup> Equal. <sup>1</sup>
South Carolina.....	W+4		( <sup>6</sup> )	
South Dakota.....		1-10 <sup>1</sup>		
Tennessee.....	W+4			
Texas.....		1-13		Equal.
Utah.....		W+1-5		
Vermont.....	W+6 <sup>2</sup>			
Virginia.....		7-11 <sup>1</sup>		
Washington.....			+5 weeks work and 5 x wba.	Equal. <sup>10</sup>
West Virginia.....		W+4 or more <sup>10</sup>		
Wisconsin.....			4 weeks work and 4 x wba.	
Wyoming.....	W+3			

<sup>1</sup> By statute, benefits postponed and/or reduced or canceled for refusals during other than current period of unemployment as indicated: from the beginning of the base period (Colorado and South Dakota); within current benefit year (Texas); within specified periods preceding a claim, 52 weeks (Georgia); 1 year (Missouri).

<sup>2</sup> Unless otherwise indicated in States noted, "W+" means week of occurrence plus indicated number of weeks following. Disqualification period begins with week of occurrence if claimant is registered for work, otherwise with week in which claimant first registers (California); week claim is filed (Georgia); unless the claimant has bona fide employment after refusal (Illinois); weeks following disqualification for voluntary leaving or misconduct, if any (Virginia); waiting period not required of claimants disqualified for refusal of suitable work (Vermont). Weeks of disqualifications must be weeks in which the claimant is otherwise eligible (Illinois); is otherwise eligible or earns wages equal to his weekly benefit amount (Arkansas and Minnesota); weeks in which the claimant meets reporting and registration requirements (California); weeks for which claim is filed within the current benefit year and following benefit year if it begins

(Footnotes continued on page 97)



that no work is unsuitable because of distance if it is in substantially the same locality as the claimant's last regular employment and if he left that employment voluntarily without good cause connected with it. Michigan, which includes the usual criteria, provides that work in a claimant's customary occupation under conditions of work and remuneration substantially equivalent to those under which he is customarily employed shall be deemed suitable.

The disqualification for refusal of suitable work is usually imposed for a failure, without good cause, to apply for available suitable work when so directed by the employment office or to accept suitable work when offered. Some States add "to return to customary self employment"; some specify that suitable work is not necessarily limited to covered employment. Four State laws make no reference to the suitability of work offered but provide for disqualification for refusals of work for which a claimant is reasonably fitted (Delaware, Maine, and New York) or for which he is physically and mentally qualified (Montana). Massachusetts deems work between the hours of 11 p.m. and 6 a.m. not suitable for women.

*Disqualification imposed.*—Fifteen States disqualify for a specified number of weeks (3 to 8) any claimants who refuse suitable work. Twenty-two States postpone benefits for a variable number of weeks with the maximum ranging from 4 in Massachusetts to 16 in Kentucky. Sixteen States (including Florida, see p. 90) disqualify, for the duration of the unemployment or longer, claimants who refuse suitable work. Thirteen of these specify an amount that the claimant must earn, or a period of time he must work to remove the disqualification (table 29).

In addition, 16 States reduce or cancel benefit rights when any such disqualification is imposed. Three of these States provide for reduction at the agency's discretion. Michigan cancels any benefit rights based on prior work for the employer who offered the job that was refused; Tennessee cancels benefit rights only if the claimant refuses

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(Footnotes for Table 28)

within 12 months after the current year (North Carolina); weeks of otherwise compensable unemployment (South Dakota). See footnote 6.

<sup>1</sup> Figures show minimum employment or wages required to requalify for benefits.

<sup>2</sup> "Equal" indicates a reduction equal to the weekly benefit amount multiplied by the number of weeks of disqualification. "Optional" indicates reduction at the discretion of the agency.

<sup>3</sup> Not applicable unless claimant has established a benefit year or is seeking to establish a benefit year at time of refusal.

<sup>4</sup> Agency may add 1-8 weeks more for successive disqualifications (California). Claimant may be disqualified until he earns 8 times weekly benefit amount for repeated refusals (South Carolina).

<sup>5</sup> State counted in 2 columns. See text for explanation of 2 disqualification periods.

<sup>6</sup> Cancellation results in disqualification for the remainder of the benefit year and until the claimant again meets qualifying requirement (see table 17).

<sup>7</sup> All benefit rights earned with the employer involved canceled if claimant refuses work offered by an employer in the base period or in the current benefit year (Michigan) or if claimant refused to return to previous employment after layoff with notice of date on which work again would be available (Tennessee). If employer involved was only employer since beginning of base period, cancellation results in disqualification until the claimant has enough employment and wages to qualify again.

<sup>8</sup> Plus such additional weeks as offer remains open. Deduction recredited if individual returns to covered employment during benefit year.

<sup>9</sup> Disqualification may be reduced to 8 weeks if individual is otherwise eligible but is unable to obtain suitable work.

to return to his previous employment even though, when laid off, he received notice of the date when work again would be available. Iowa and Nebraska cancel all benefit rights earned prior to a refusal. If the employer, who offered the job, was the claimant's only base-period employer, the Michigan and Tennessee cancellation provisions result in disqualification until the claimant again qualifies. The Iowa and Nebraska cancellation provisions have the effect of disqualifying the claimant for the remainder of the current benefit year and until he has earned sufficient wages to qualify in a subsequent benefit year.

The relationship between availability for work and refusal of suitable work was pointed out in the discussion of availability, page 82. The Wisconsin provisions for suitable work recognize this relationship by stating "If the commission determines that \* \* \* a failure [to accept suitable work] has occurred with good cause, but that the employee is physically unable to work or substantially unavailable for work, he shall be ineligible for the week in which such failure occurred and while such inability or unavailability continues."

The disqualifications imposed for refusal of suitable work are summarized below:

<i>Provision</i>	<i>Number of States<sup>1</sup></i>	
All States.....	—	52
No reduction of benefit rights.....	36	—
Reduction of benefit rights.....	16	—
Maximum period of 6 weeks or less.....	—	15
No reduction of benefit rights.....	11	—
Reduction of benefit rights.....	4	—
Maximum period of more than 6 weeks.....	—	21
No reduction of benefit rights.....	13	—
Reduction of benefit rights.....	8	—
Disqualification for the duration of unemployment or longer.....	—	10
No reduction of benefit rights.....	12	—
Reduction of benefit rights.....	4	—

<sup>1</sup> Counting Florida in the unlimited group and West Virginia in the under 6-weeks group; see table 29.

## **Labor Disputes**

The disqualifications for unemployment due to labor disputes differ considerably from those for voluntary leaving, discharge for misconduct, and refusal of suitable work.

*Definition of labor disputes.*—The laws differ in the terms used—for example labor dispute, trade dispute, strike, or strike and lock-out. Nine States exclude lockouts, presumably to avoid penalizing workers for the employer's action; three States exclude disputes due to the employer's failure to conform to the provisions of a labor contract, and four States, those due to employer's failure to conform to any law of the United States or the State on such matters as wages, hours, working conditions, or collective bargaining, or disputes where

Table 30.—Disqualification for unemployment due to labor dispute

State	Duration of disqualification			Disputes excluded if due to—			Individuals are excluded if neither they nor any of the same grade or class are—		
	During stoppage of work due to dispute (34 States)	While dispute in active progress (12 States)	Other (6 States)	Employer's failure to conform to—		Lock-out (9 States)	Participating in dispute (43 States)	Financing dispute (30 States)	Directly interested in dispute (42 States)
				Contract (3 States)	Labor Law (4 States)				
Alabama.....		X							
Alaska.....	X			X	X		X		X
Arizona.....			X	X	X		X	X	X
Arkansas.....						X			
California.....		X							
Colorado.....	X						X	X	X
Connecticut.....			X			X	X		X
Delaware.....	X								
District of Columbia.....		X					X		X
Florida.....		X						X	X
Georgia.....	X						X		X
Hawaii.....	X						X		X
Idaho.....	X						X	X	X
Illinois.....	X						X	X	X
Indiana.....	X						X	X	X
Iowa.....	X						X	X	X
Kansas.....	X						X	X	X
Kentucky.....		X				X			
Louisiana.....		X					X		X
Maine.....	X						X	X	X
Maryland.....							X	X	X
Massachusetts.....	X						X	X	X
Michigan.....	X						X	X	X
Minnesota.....		X				X			
Mississippi.....	X					X	X		X
Missouri.....	X						X	X	X
Montana.....	X				X		X	X	X
Nebraska.....	X						X	X	X
Nevada.....		X					X	X	X
New Hampshire.....	X			X		X	X	X	X
New Jersey.....	X						X	X	X
New Mexico.....	X						X		X
New York.....			X						
North Carolina.....			X						
North Dakota.....	X						X		X
Ohio.....	X					X	X		X
Oklahoma.....	X						X		X
Oregon.....		X					X	X	X
Pennsylvania.....	X					X	X		X
Puerto Rico.....	X						X		X
Rhode Island.....			X				X	X	X
South Carolina.....		X					X	X	X
South Dakota.....	X						X	X	X
Tennessee.....		X					X		
Texas.....	X						X	X	X
Utah.....					X				(?)
Vermont.....	X						X	X	X
Virginia.....	X						X	X	X
Washington.....	X						X	X	X
West Virginia.....	X			(?)		X	X	X	X
Wisconsin.....		X							
Wyoming.....	X						X	X	X

1 So long as unemployment is due to existence of labor dispute.

2 See text for details.

3 Applies only to individual, not to others of same grade or class.

4 Disqualification is not applicable if claimant subsequently obtains covered employment and earns at least \$650. However, base-period wages earned from the employer involved in the labor dispute cannot be used to pay benefits during such labor dispute.

5 Fixed period: 7 consecutive weeks and the waiting period or until termination of the dispute (New York); 6 weeks and the waiting period (Rhode Island). See table 18 for waiting-period requirements.

6 So long as unemployment is due to the claimant's stoppage of work which exists because of a labor dispute. Failure or refusal to cross picket line or to accept and perform his available and customary work in the establishment constitutes participation and interest.

7 Disqualification is not applicable if employees are required to accept wages, hours, or other conditions substantially less favorable than those prevailing in the locality or are denied the right of collective bargaining.

the employees are protesting substandard working conditions (table 30).

*Location of the dispute.*—Usually a worker is not disqualified unless the labor dispute is in the establishment in which he was last employed. Idaho omits this provision; Connecticut includes unemployment due to the existence of a labor dispute in any establishment operated by the employer within the State; North Carolina, Oregon, Texas, and Virginia include a dispute at any other premise which the employer operates if the dispute makes it impossible for him to conduct work normally in the establishment in which there is no labor dispute. Michigan specifically disqualifies workers who stopped work voluntarily in sympathy with striking employees in some other establishment or department of the same employer and those who became unemployed indirectly because of a stoppage of work in some other department or unit.

*Period of disqualification.*—In 48 States, labor-dispute disqualifications last, in general, as long as the labor dispute. In 34 of these States the period of disqualification ends whenever the "stoppage of work because of a labor dispute" comes to an end or the stoppage ceases to be due to the labor dispute. In 12 States, disqualifications last while the labor dispute is in "active progress," and in Arizona and Connecticut, while the workers' unemployment is due to a labor dispute (table 30). A few State laws allow individuals to terminate a disqualification by showing that the labor dispute (or the stoppage of work) is no longer the cause of their unemployment. Thus the Missouri law specifies that bona fide employment of the claimant for at least the major part of each of 2 weeks will terminate the disqualification; and the New Hampshire law specifies that the disqualification will terminate 2 weeks after the dispute is ended even though the stoppage of work continues. In contrast, the Arkansas and North Carolina laws extend the disqualification for a reasonable period of time necessary for the establishment to resume normal operations. Under the Massachusetts law a claimant may receive benefits if, during a stoppage of work due to a labor dispute, he obtains employment with another employer and earns wages of at least \$650; however, base-period wages earned with the employer involved in the dispute cannot be used for benefit payments while the stoppage of work continues.

Only two States provide for a definite period of disqualification. In New York a worker who lost his employment because of a strike or lockout in the establishment where he was employed can accumulate "effective day" after the expiration of 7 weeks and the waiting period, or earlier if the controversy is terminated earlier. In Rhode Island a worker who became unemployed because of a strike in the establishment in which he was employed is entitled to benefits for unemploy-

ment which continues after a 6-week disqualification period and a 1-week waiting period.

*Exclusion of individual workers.*—The California law applies the disqualification only to individuals who left work because of the dispute. In Texas the unemployment must be due to the claimant's stoppage of work. Kentucky, Minnesota, Rhode Island, and Wisconsin limit the disqualification to workers whom the dispute caused to lose or leave their employment. Utah applies a disqualification only in case of a strike involving a claimant's grade, class, or group of workers if one of the workers in the grade, class, or group fomented or was a party to the strike; if the employer or his agent and any of his workers or their agents conspired to foment the strike, no disqualification is applied. Massachusetts provides specifically that benefits will be paid to an otherwise eligible individual from his period of unemployment to the date a strike or lockout commenced, if he becomes involuntarily unemployed during negotiations of a collective bargaining contract; Minnesota provides that an individual is not disqualified if he is dismissed during negotiations prior to a strike; and Ohio provides that the labor-dispute disqualification will not apply if claimant is laid off for an indefinite period or separated prior to dispute, or if he obtains a bona fide job with another employer while dispute is still in progress. The other States provide that individual workers are excluded if they and others of the same grade or class are not participating in the dispute (43 States), financing it (30 States), or directly interested in it (42 States), as indicated in table 30. A few States omit "others of the same grade or class."

### **Disqualification of Special Groups**

Under all State laws, students who are not available for work while attending school, women who are unable to work because of pregnancy and women who quit their jobs because of marital obligations which make them unavailable for work would not qualify for benefits under the regular provisions concerning ability to work and availability for work. However, 41 States make special mention of pregnant women or married women, or both, and most of them restrict benefits more than under the usual disqualification provision. States have special provisions concerning the benefit rights of students. New York (not included in any of these lists) has a general provision that any claimant who leaves work voluntarily under circumstances which show a bona fide withdrawal (temporary or permanent) from the labor market is disqualified until he presents certification of a bona fide return to the labor market.

*Pregnant women.*—Thirty-seven States have special provisions for disqualification for unemployment due to pregnancy; 23 for unemployment due to marital obligations. Nineteen States have both pro-

visions (table 31). In addition, Rhode Island provides by regulation that a claimant whose employment has been severed because of pregnancy will be presumed to be unable to work but the presumption is not conclusive and may be overcome by affirmative evidence to the contrary.

Of the 37 statutory provisions on pregnancy, 15 hold the woman unable to work and unavailable for work and 22 disqualify her because she left work on account of her condition or because her unemployment is due to pregnancy. In the restriction of benefit rights there is no distinction between the two types of provisions.

Indiana and Michigan disqualify for the duration of unemployment due to pregnancy. Alaska, Arkansas, Connecticut, Georgia, Minnesota, North Dakota and West Virginia require earnings in insured work to reestablish benefit rights; the Connecticut earnings requirement is not applicable if the claimant applies without restriction for her former or for a comparable job with her last employer or if the

**Table 31.—Special availability and disqualification provisions for pregnancy and marital obligations, 41 States**

State	Period of disqualification or unavailability	
	Unemployment due to pregnancy <sup>1</sup> (37 States)	Unemployment due to marital obligations <sup>2</sup> (23 States)
Alaska.....	Until employed with wages of at least \$120.	Until employed with wages of at least \$120.
Arkansas.....	Until employed 30 days <sup>3</sup> .....	Until employed 30 days. <sup>4</sup>
California.....		Until employed in bona fide employment. <sup>4</sup>
Colorado.....	1-10 weeks with equal reduction of benefits.	1-10 weeks, with equal reduction of benefits.
Connecticut.....	Not less than 2 months before and 2 after childbirth. <sup>5</sup>	
Delaware.....	Not less than 8 weeks before and 6 after childbirth.	
District of Columbia.....	6 weeks before and 6 after childbirth.....	
Georgia.....	Duration of pregnancy, if she voluntarily left work because of pregnancy and unless she earns 8 x wba in bona fide insured work.	
Hawaii.....	4 months before and 2 after childbirth.....	Until shows evidence of availability besides registration for work.
Idaho.....	6 weeks before and 6 after childbirth <sup>6</sup> .....	Until demonstrates desire and availability for work, or becomes main support of self and family.
Illinois.....	13 weeks before and 4 after childbirth <sup>6</sup> .....	Until employed in bona fide work, unless individual becomes sole support of self and family; or until domestic circumstances causing separation cease. <sup>7</sup>
Indiana.....	Duration of unemployment due to pregnancy.	Until employed with wages of at least \$200 under any unemployment insurance law.
Kansas.....	2 months before and 1 after childbirth.....	
Kentucky.....		Until employed in bona fide work.
Louisiana.....	12 weeks before and 6 after childbirth.....	
Maine.....	Not less than 8 weeks before and 4 after childbirth.	If voluntarily left work, until 15 x wba is earned.
Maryland.....	2 months before and 2 after childbirth.....	
Massachusetts.....	Not less than 4 weeks before and 4 after childbirth. <sup>1</sup>	
Michigan.....	Duration of unemployment due to pregnancy. <sup>3</sup>	
Minnesota.....	Until employed 2 weeks in insured work.	If voluntarily left work, until employed 2 weeks in insured work; if dismissed due to employer rule on employment of married women, all wage credits with such employer canceled. <sup>4</sup>

(Continued on page 103)

Table 31.—Special availability and disqualification provisions for pregnancy and marital obligations, 41 States—Continued

State	Period of disqualification or unavailability	
	Unemployment due to pregnancy <sup>1</sup> (37 States)	Unemployment due to marital obligations <sup>2</sup> (23 States)
Mississippi.....		Until employed with earnings of 8 x wba.
Missouri.....	3 months before and 4 weeks after childbirth.	
Montana.....	If she left most recent work during pregnancy and unless she submits medical evidence of ability to work, until 2 months following childbirth.	All existing wage credits canceled.
Nebraska.....	12 weeks before and 4 after childbirth <sup>4</sup> .	
Nevada.....	Not less than 60 days before childbirth and until proof of ability to resume work is submitted.	Until \$50 is earned in bona fide work.
New Hampshire.....	8 weeks before and 8 after childbirth <sup>5</sup> .	
New Jersey.....	4 weeks before and 4 after childbirth.....	
New York.....		Until employed 3 days in each of 4 weeks or earned \$200.
North Carolina.....	Not less than 3 months before and 3 after childbirth. <sup>1</sup>	
North Dakota.....	4 months before and until employed with earnings of 10 x wba.	Until employed with earnings of 10 x wba.
Ohio.....	8 weeks before and 8 after childbirth, unless within latter period medical evidence is submitted.	Until employed in insured work with wages equal to wba.
Oklahoma.....	6 weeks before and 6 after childbirth.....	Until employed in bona fide work.
Oregon.....	From week of leaving until 6 weeks after childbirth.	Until employed in bona fide work.
Pennsylvania.....	If laid off because of pregnancy, 3 months before and 1 after childbirth; if laid off for lack of work, 1 month before and 1 after childbirth; if voluntarily left work, until 8 x wba is earned.	Until 8 x wba is earned. <sup>6</sup>
South Dakota.....	If voluntarily left work because of pregnancy until at least 30 days after childbirth; if dismissed because of pregnancy, at least 60 days before and 30 after childbirth.	
Tennessee.....	If voluntarily left work because of pregnancy, 4 weeks after becoming able to work; benefits reduced by 10 x wba.	Until employed in insured work with wages equal to 5 x wba.
Utah.....	Not less than 12 weeks before and 6 after childbirth.	Until \$100 is earned or individual becomes main support of self or family.
Vermont.....	8 weeks before and 4 after childbirth.....	
Washington.....	10 weeks before and 4 after childbirth <sup>7</sup> .	
West Virginia.....	Until employed 30 days in insured work; if medical evidence of ability to work is submitted, not more than 6 weeks before and 6 after childbirth.	Until employed 30 days in insured work.
Wisconsin.....	10 weeks before and 4 after childbirth.....	

<sup>1</sup> 15 States (Idaho, Illinois, Indiana, Kansas, Maine, Massachusetts, Missouri, Nebraska, New Jersey, North Carolina, North Dakota, Ohio, South Dakota, Washington, and Wisconsin) provide that if unemployment is due to pregnancy, a woman shall be deemed unavailable for the period specified; the other 22 provide for disqualification.

<sup>2</sup> 5 States (Hawaii, Idaho, Illinois, North Dakota, and Oklahoma) provide that an individual who leaves work voluntarily because of marital obligations shall be deemed to be unavailable; the other 18 provide for disqualification.

<sup>3</sup> Not applicable if claimant applies for reinstatement after leave of absence and is not reinstated (Arkansas); disqualification satisfied if claimant, granted leave of absence and assurance of reemployment, was not reemployed (Michigan).

<sup>4</sup> Not applicable if claimant leaves to join husband in new residence and immediately upon arrival enters the labor market and makes a reasonable effort to secure work (Arkansas); if claimant is sole or major support of his or her family (California), if claimant is sole support of herself or main support of member of immediate family (Minnesota); if individual was sole or major support of family during substantial part of 6 months prior to separation, or filing (Pennsylvania).

<sup>5</sup> And until applies without restriction for former or comparable job with last employer or until earns wages of \$100 (Connecticut); benefits not denied if child dies and claimant is otherwise eligible (Connecticut and North Carolina).

<sup>6</sup> Duration of the pregnancy if voluntarily left work (Idaho); if voluntarily left work because of pregnancy (Illinois, Nebraska, and Washington).

<sup>7</sup> If voluntarily leaves locality until claimant becomes sole support of himself or family, the circumstances or family relationships causing him to leave have ceased, the individual returns to locality, or earns 8 times his weekly benefit amount.

<sup>8</sup> Presumed to be unavailable if, solely for personal reasons, she is not able to continue in or return to position in which most recently employed.

<sup>9</sup> Disqualification terminated if, after childbirth, she earns in 1 week her weekly benefit amount plus \$3 in insured work.

child dies. Seven States<sup>2</sup> disqualify for the duration of the unemployment due to pregnancy but not less than a specified period before and after childbirth. Twenty-one other States provide a specified period before and/or after childbirth, but of these Idaho, Illinois, Nebraska, Pennsylvania, and Washington extend the period to the duration of unemployment or longer if the claimant voluntarily left work (table 31).

*Individuals with marital obligations.*—Of the 23 States with a special provision for unemployment due to marital obligations, all except 5<sup>3</sup> provide for disqualification rather than a determination of unavailability.

Generally, the disqualification is applicable only if the individual left work voluntarily but in Minnesota the disqualification extends to women who lose their jobs because of an employer's rule not to employ married women.

Except for Colorado, with a limited disqualification and California, Idaho, Illinois, Pennsylvania, and Utah where domestic or economic circumstances may remove the disqualification or unavailability, the States which have special provisions for unemployment due to marital obligations disqualify for the duration of the unemployment or longer. In Hawaii proof of availability may remove the disqualification. In addition, Colorado reduces benefit rights and Minnesota cancels wage credits earned with the employer from whose employ a woman is separated because of his rule not to employ married women. Such cancellation means the denial of benefits for at least the current benefit year—how much longer depends on the benefit formula and the end of the benefit year for the individual claimant.

*Students.*—Six States<sup>4</sup> exclude from coverage the part-time work of students and 32 States exclude service performed by students for educational institutions (table 5). Seventeen States have special provisions limiting the benefit rights of students who have had covered employment. Seven States<sup>5</sup> disqualify for voluntarily leaving work to attend school; in some of these States, the disqualification is for the duration of the unemployment; in others, during attendance at school or during the school term. Seven States<sup>6</sup> disqualify claimants during school attendance and in some cases during vacation periods. Indiana considers individuals attending school, college, hospital, or training school as unavailable for work, but accepts as available students who attend night school or part-time school and those who work during

<sup>2</sup> Connecticut, Delaware, Maine, Massachusetts, Nevada, North Carolina, and Utah.

<sup>3</sup> Hawaii, Idaho, Illinois, North Dakota, and Oklahoma.

<sup>4</sup> Iowa, Kentucky, Massachusetts, New Jersey, New York, and Ohio.

<sup>5</sup> Arkansas, Connecticut, Kansas, Kentucky, Montana, North Dakota, and West Virginia.

<sup>6</sup> Idaho, Illinois, Montana, Nebraska, Nevada, North Dakota, and Vermont.



vacation; moreover, students who customarily work full time are not considered unavailable when unemployed.

In Michigan, Pennsylvania, South Dakota, Vermont, and Wisconsin, benefits are not payable on wages earned while an individual was a student, with some variations and exceptions. In Michigan, for example, the provision is limited to minor students below college grade, performing less than full-time work or working only during vacations. In Wisconsin, in addition to the restrictions on earning credit weeks, students who work only part time and during vacations are not eligible for benefits based on other work.

#### **Disqualification for Fraudulent Misrepresentation To Obtain Benefits**

Fifty-one States have special disqualifications covering fraudulent misrepresentation to obtain or increase benefits (table 33). These disqualifications from benefits are in addition to the provisions for the repayment of benefits paid as the result of fraudulent claims or their deduction from potential future benefits and the provisions of fines and/or imprisonment for willfully or intentionally misrepresenting or concealing facts concerning employment and earnings which are material to a determination concerning the individual's entitlement to benefits.

*Recovery provisions.*—All State laws contain some provision for the recovery, by the State agency, of benefits paid as the result of fraud on the part of the recipient. In 24 States<sup>7</sup> the provision applies specifically to benefit payments paid as the result of fraudulent misrepresentation; the other States, except Texas, recover such payments under a general provision for recovery of overpayments, whether or not they were due to misrepresentation. Texas recovers only overpayments due to nondisclosure or misrepresentation, whether or not fraudulent.

All but four States provide alternative methods for recovery of overpayments or benefits fraudulently received; the recipient may be required to repay the amounts in cash or to have them offset against future benefits payable to him. New York provides that a claimant shall refund all moneys received because of misrepresentation; and Alabama, for withholding future benefits until the amount due is offset. In Texas and Wisconsin the commission may by civil action recover any benefit obtained through misrepresentation.

*Fines or imprisonment.*—Four State laws (California, Minnesota, Tennessee, and Virginia) provide that any fraudulent misrepresentation or nondisclosure to obtain, increase, reduce, or defeat benefit payments is a misdemeanor, punishable according to the State criminal

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<sup>7</sup> Arizona, Arkansas, Colorado, Delaware, District of Columbia, Florida, Hawaii, Indiana, Louisiana, Maine, Minnesota, Missouri, Nebraska, New Hampshire, New York, Ohio, Oklahoma, Oregon, Utah, Vermont, Virginia, Washington, Wisconsin, and Wyoming.

law. Fraudulent misrepresentation or nondisclosure to obtain or increase benefits is a misdemeanor under the Georgia law, a felony under the Idaho law, and larceny under the Puerto Rico law. The other States include in the law a provision for a fine (maximum \$20 to \$1,000) or imprisonment (maximum 30 days to 1 year) or both (table 32). In 26 States the penalty provision applicable to a claimant who is found guilty of misrepresentation or nondisclosure to obtain or increase benefits is the same as that provided for an employer who misrepresents to prevent or reduce benefits. In 19 States the penalty on the employer is greater, in some cases considerably greater, than that applicable to the claimant. Usually the same penalty applies if the employer knowingly makes a false statement or fails to disclose a

Table 32.—Penalties for fraudulent misrepresentation: Fine or imprisonment or both in amounts and periods specified <sup>1</sup>

State	To obtain or increase benefits		To prevent or reduce benefits		State	To obtain or increase benefits		To prevent or reduce benefits	
	Fine <sup>2</sup>	Maximum <sup>3</sup> imprisonment (days unless otherwise specified)	Fine <sup>2</sup>	Maximum <sup>3</sup> imprisonment (days unless otherwise specified)		Fine <sup>2</sup>	Maximum <sup>3</sup> imprisonment (days unless otherwise specified)	Fine <sup>2</sup>	Maximum <sup>3</sup> imprisonment (days unless otherwise specified)
Ala. ....	\$25- \$250	3 mos.	\$50- \$250	3 mos.	Mont. ....	\$50- \$500	3-30	\$50- \$500	3-30
Alaska ..	- 200	60	- 200	60	Nebr. ....	20- 50	30	20- 200	60
Ariz. ....	25- 200	60	25- 200	60	Nev. ....	50- 500	6 mos.	50- 500	6 mos.
Ark. ....	20- 50	30	20- 200	60	N. H. ....	20- 200	1 yr.	25- 300	1 yr.
Calif. ....	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	N. J. ....	- 20	-	- 50	-
Colo. ....	25-1,000	6 mos.	25-1,000	6 mos.	N. Mex. ....	- 100	30	- 100	30
Conn. ....	- 200	6 mos.	- 200	6 mos.	N. Y. ....	- 500	1 yr.	- 500	1 yr.
Del. ....	20- 50	60	20- 200	60	N. C. ....	20- 50	30	20- 50	30
D. C. ....	- 100	60	-1,000	6 mos.	N. Dak. ....	- 100	90	20- 100	90
Fla. ....	50- 100	30	50- 500	60	Ohio. ....	- 500	6 mos.	- 500	6 mos.
Ga. ....	( <sup>4</sup> )	( <sup>4</sup> )	20- 200	60	Okla. ....	20- 50	30	20- 200	60
Hawaii ..	20- 200	30	20- 200	60	Oreg. ....	100- 500	90	100- 500	90
Idaho. ....	( <sup>4</sup> )	( <sup>4</sup> )	20- 200	60	Pa. ....	30- 200	30	50- 500	30
Ill. ....	5- 200	6 mos.	5- 200	6 mos.	P. R. ....	( <sup>7</sup> )	( <sup>7</sup> )	1,000	1 yr.
Ind. ....	20- 100	60	20- 100	60	R. I. ....	20- 50	30	20- 100	30
Iowa. ....	20- 50	30	20- 200	60	S. C. ....	20- 100	30	20- 100	30
Kans. ....	20- 50	30	20- 200	60	S. Dak. ....	20- 200	( <sup>4</sup> )	20- 200	60
Ky. ....	10- 50	30	10- 50	30	Tenn. ....	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )
La. ....	50- 200	90	50- 200	90	Tex. ....	100- 500	30-1 yr.	20- 200	60
Maine. ....	20- 50	30	20- 200	60	Utah. ....	50- 250	60	50- 250	60
Md. ....	50- 500	90	50- 500	90	Vt. ....	50- 50	30	- 50	30
Mass. ....	25- 200	30	100- 500	90	Va. ....	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )
Mich. ....	- 100	90	- 100	90	Wash. ....	20- 250	90	20- 250	90
Minn. ....	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	W. Va. ....	20- 50	30	20- 200	30
Miss. ....	20- 50	30	20- 200	60	Wis. ....	25- 100	30	25- 100	30
Mo. ....	50-1,000	6 mos.	50-1,000	6 mos.	Wyo. ....	- 50	30	- 200	60

<sup>1</sup> In States footnoted, law does not require both fine and imprisonment, except Iowa which may impose both fine and imprisonment for fraudulent misrepresentation to prevent or reduce benefits; Pennsylvania to obtain or increase benefits; and Puerto Rico to obtain or increase benefits, and to prevent or reduce benefits.

<sup>2</sup> Where only 1 figure is given, no minimum penalty is indicated; law says "not more than" amounts specified.

<sup>3</sup> Louisiana and South Dakota specify a minimum imprisonment of 30 days.

<sup>4</sup> General penalty for violation of any provisions of law; no specific penalty for misrepresentation to prevent or reduce benefits and, in Vermont, to obtain or increase benefits. In Ohio, penalty for each subsequent offense, \$25-\$1,000.

<sup>5</sup> Misdemeanor.

<sup>6</sup> Felony.

<sup>7</sup> Penalty prescribed in Penal Code for larceny of amount involved.

material fact to avoid becoming or remaining subject to the act or to avoid or reduce his contributions. New Jersey imposes a fine of \$250 to \$1,000 if an employer files a fraudulent contribution report; and imposes the same fine if an employer aids or abets an individual in obtaining more benefits than those to which he is entitled. Five States provide no specific penalty for fraudulent misrepresentation or non-disclosure; in these States the general penalty is applicable. (See footnote 4, table 32.) The most frequent fine on the worker is \$20-\$50 (11 States) and on the employer, \$20-\$200 (15 States).

*Disqualification for misrepresentation.*—The provisions for disqualification for fraudulent misrepresentation follow no general pattern. In most of the States which disqualify for fraud, the intention to defraud is disqualifying, but in Illinois and Wyoming there is no administrative disqualification unless benefits have been received as a result of the fraudulent act. In nine States<sup>a</sup> there is a more severe disqualification when the fraudulent act results in payment of benefits; in California, Nevada, New Hampshire, Oregon, and Pennsylvania, when the claimant is convicted.

In California any claimant *convicted* of misrepresentation under the penalty provisions is disqualified for 1 year. In Rhode Island and Virginia there is no disqualification unless the claimant has been convicted of fraud by a court of competent jurisdiction. On the other hand, in Hawaii, Pennsylvania, and Puerto Rico a claimant is not subject to the administrative disqualification if penal procedures have been undertaken; in Massachusetts administrative disqualification precludes initiation of penal procedures.

In the District of Columbia, Massachusetts, New Hampshire, and Pennsylvania, application of the disqualification is not mandatory but is left to the discretion of the agency. In Arizona, Kentucky, and Minnesota, the duration of the disqualification is at the discretion of the agency.

In many States the disqualification is, as would be expected, more severe than the ordinary disqualification provisions. In 12 States the disqualification is for at least a year; in others it may last longer. The provisions are difficult to compare because some disqualifications start with the date of the fraudulent act while others begin with the discovery of the act, the determination of fraud, or the date on which the individual is notified to repay the sum so received, or conviction by a court; some begin with the filing of a first claim, while others are for weeks that would otherwise be compensable. The disqualification provisions are, moreover, complicated by tie-in with recoupment provisions and by retroactive impositions.

<sup>a</sup> Arizona, Idaho, Kentucky, Louisiana, Maine, Michigan, Ohio, Utah, and Vermont.

**Table 33.—Special provisions for disqualification for fraudulent misrepresentation to obtain benefits, 51 States**

State	Duration of disqualification <sup>1</sup>	Benefits reduced or canceled
Alabama.....		4 x wba—to maximum benefit amount payable in benefit year. <sup>2</sup>
Alaska.....	26 <sup>1, 2</sup>	(9).
Arizona.....	12-52 weeks <sup>1, 2, 3</sup>	(9).
Arkansas.....	Current benefit year + <sup>4</sup>	All wage credits prior to act canceled.
California.....	1-10; if convicted, 52 weeks <sup>1, 2</sup>	(9).
Colorado.....	Period of adjudication as determined by agency.	(9).
Connecticut.....	2-20 weeks for which otherwise eligible <sup>1, 2</sup>	Mandatory equal reduction.
Delaware.....	W+51.....	X. <sup>2</sup>
District of Columbia.....	All or part of remainder of benefit year and for 1 year commencing with the end of such benefit year. <sup>2</sup>	X. <sup>2</sup>
Florida.....	1-52 weeks <sup>1</sup>	(9).
Georgia.....	Current benefit year + <sup>4</sup>	All unpaid benefits for unemployment after act and until 4 complete calendar quarters after determination of fraud canceled. <sup>2</sup>
Hawaii.....	1-52 weeks <sup>1, 2</sup>	(9).
Idaho.....	If fraudulent benefits received, until such amounts and penalty are repaid.	(9).
Illinois.....	If fraudulent benefits received, until such amounts and penalty are repaid or withheld. <sup>1</sup>	(9).
Indiana.....	Up to current benefit year + <sup>4</sup>	All wage credits prior to act canceled.
Kansas.....	W+51.....	X. <sup>2</sup>
Kentucky.....	W+up to 52 weeks; if fraudulent benefits received, until such amounts are repaid. <sup>1, 2</sup>	(9).
Louisiana.....	W+52; if fraudulent benefits received, until such amounts are repaid.	X. <sup>2</sup>
Maine.....	Duration of unemployment + \$400 in wages; if fraudulent benefits received, further period of 3 months-1 year. <sup>1</sup>	
Maryland.....	1 year and until benefits repaid <sup>1, 2</sup>	X. <sup>2</sup>
Massachusetts.....	1-10 weeks for which otherwise eligible <sup>1, 2</sup>	
Michigan.....	Current benefit year +; if fraudulent benefits received, until such amounts are repaid. <sup>1, 2</sup>	All uncharged credit weeks canceled.
Minnesota.....	W+up to end of current or succeeding benefit year.	(9).
Mississippi.....	W+52 <sup>1</sup>	X. <sup>2</sup>
Missouri.....	Up to current benefit year + <sup>4</sup>	All or part of wage credits prior to act canceled.
Montana.....	12 months and until benefits repaid <sup>1</sup>	
Nebraska.....	Up to current benefit year + <sup>4</sup>	All or part of wage credits prior to act canceled.
Nevada.....	W+1-52; if convicted W+51.....	X. <sup>2</sup>
New Hampshire.....	4-52 weeks; if convicted 1 year after conviction; and until benefits repaid or withheld. <sup>2</sup>	Mandatory equal reduction.
New Jersey.....	W+7 <sup>1, 2</sup>	If fraudulent benefits received, x wba.
New Mexico.....	Not more than 52 weeks <sup>1</sup>	X. <sup>2</sup>
New York.....	20-30 days for which otherwise eligible <sup>1, 2</sup>	Mandatory equal reduction.
North Carolina.....	W+51.....	X. <sup>2</sup>
North Dakota.....	W+51.....	X. <sup>2</sup>
Ohio.....	Duration of unemployment +10.....	X. <sup>10</sup>
Oklahoma.....	W+51 <sup>1, 2</sup>	Base period or benefit year may not be established during period.
Oregon.....	Up to 26 weeks; if convicted, until benefits repaid or withheld. <sup>1</sup>	If convicted, all wage credits prior to conviction canceled. <sup>2</sup>
Pennsylvania.....	2 weeks plus 1 week for each week of fraud or if convicted of illegal receipt of benefits, 1 year after conviction. <sup>2, 3, 11</sup>	X. <sup>2</sup>
Puerto Rico.....	W+7. <sup>1, 2</sup>	
Rhode Island.....	If convicted, 1 year after conviction.....	X. <sup>2</sup>
South Carolina.....	W+51 <sup>1</sup>	X. <sup>2</sup>
South Dakota.....	1-52 weeks <sup>1</sup>	(9).
Tennessee.....	W+4-52.....	(9).
Texas.....	Current benefit year.....	Benefits for remainder of benefit year canceled.
Utah.....	W+51; and until benefits received fraudulently are repaid.	X. <sup>2</sup>
Vermont.....	Until amount of fraudulent benefits are repaid or withheld +1-26 weeks. <sup>1</sup>	(9).
Virginia.....	If convicted, current benefit year.....	Base-period wage credits canceled.
Washington.....	Week of fraudulent act +26 weeks following filing of first claim after determination of fraud. <sup>2</sup>	X. <sup>2</sup>
West Virginia.....	W+5-52 weeks <sup>1, 12</sup>	Mandatory reduction of 5 times weekly benefit amount for each week of disqualification.
Wisconsin.....	Each week of fraud.....	1-3 weeks. <sup>2, 12</sup>
Wyoming.....	If convicted, 2 weeks for each week of fraud.	

As table 33 shows, the cancellation of wage credits in many States means the denial of benefits for the current benefit year or longer. A disqualification for a year means that wage credits will have expired, in whole or in part, depending on the end of the benefit year and the amount of wage credits accumulated for another benefit year before the fraudulent act, so that future benefits are reduced as if there had been a provision for cancellation. In other States with discretionary provisions or shorter disqualification periods, the same result will occur for some claimants. Altogether, misrepresentation involves cancellation or reduction of benefit rights in 33 States and may involve reduction of benefit rights for individual claimants in 13 more States. The disqualification for fraudulent misrepresentation usually expires after a second benefit year, but in California it may be imposed within 3 years after the determination is mailed or served; in Ohio, within 4 years after a finding of fraud; and in Washington, within 2 years of such finding. In 10 States<sup>9</sup> the agency may deny benefits until the benefits obtained through fraud are repaid. In Minnesota, if benefits fraudulently obtained are not repaid within 20 days from the date of notice of finding of fraud, such amounts are deducted from future benefits in the current or *any* subsequent benefit year.

\* Idaho, Illinois, Kentucky, Louisiana, Maryland, Michigan, New Hampshire, Oregon, Utah, and Vermont.

#### Footnotes for Table 33

<sup>1</sup> "W" means week in which the act occurs plus the indicated number of consecutive weeks following. The period of disqualification is measured from date of determination of fraud (Alaska, Hawaii, Kentucky, Maine, Maryland, Michigan, Mississippi, Montana, New Jersey, New Mexico, Oklahoma, Puerto Rico, and Vermont); date of claim or registration for work (Arizona, South Carolina, and West Virginia); week determination is mailed or served, or any subsequent week for which individual is first otherwise eligible for benefits; if convicted, week in which criminal complaint is filed (California); waiting or compensable week after its discovery (Connecticut, Florida, Massachusetts, New York, and South Dakota), as determined by agency (Oregon).

<sup>2</sup> Provision applicable at discretion of agency.

<sup>3</sup> Provision applicable only if claim filed within 2 years after offense (Alaska, Arizona, Hawaii, Maryland, New York, and Puerto Rico); if claim is filed within 2 years after discovery of offense (Connecticut); if determination of fraud is made within 12 months after offense (Georgia and Pennsylvania); and within 2 years after offense (Kentucky and Oklahoma); if court proceedings are not undertaken (Hawaii, Pennsylvania, and Puerto Rico); if claim is filed within 2 years following determination of fraud (Washington); if claim is filed within 2 years after conviction (Wyoming).

<sup>4</sup> Before disqualification period ends, wage credits may have expired in whole or in part depending on disqualification imposed and/or end of benefit year. State not counted in the 33 States which reduce or cancel benefits.

<sup>5</sup> Statutory provision is 1-52 weeks according to circumstances. By regulation: 12 weeks for failure to report wages for 1 week; 26 weeks for failure to report wages for 2 weeks; and 52 weeks for such failure for 3 or more weeks.

<sup>6</sup> Cancellation of all wage credits means that period of disqualification will extend into 2d benefit year, depending on the amount of wage credits for such a year accumulated before fraudulent claim.

<sup>7</sup> This disqualification may be served concurrently with a disqualification imposed for any of the 3 major causes if the individual registers for work for such week as required under the latter disqualifications.

<sup>8</sup> Before disqualification period ends, wage credits will have expired in whole or in part, depending on end of benefit year.

<sup>9</sup> Penalty is equal to greater of amount fraudulently received or current weekly benefit amount unless 3 years have elapsed from notification to repay.

<sup>10</sup> In addition, claims shall be rejected within 4 years and benefits denied for a period determined by the agency and until repayment of benefits fraudulently drawn.

<sup>11</sup> And until benefits withheld or repaid if a finding of fault on the part of the claimant has been made.

<sup>12</sup> For each week of disqualification for fraudulent claim, an additional 5-week disqualification is imposed.

<sup>13</sup> Compensable weeks within 2-year period following date of determination of fraud for concealing earnings or refusal of job offer.

## Disqualifying Income

Practically all the State laws include a provision that a claimant is disqualified from benefits for any week during which he is receiving or is seeking benefits under any Federal or other State unemployment insurance law. A few States mention specifically benefits under the Federal Railroad Unemployment Insurance Act or servicemen's allowances, except benefits under title IV of the Veterans' Readjustment Assistant Act of 1952 (see ch. VII). Under most of the laws, no disqualification is imposed if it is finally determined that the claimant is ineligible under the other law. The intent is clear—to prevent duplicate payment of benefits for the same week. It should be noted that such "disqualification" applies only to the week in which or for which the other payment is received.

Forty-three States have statutory provisions that a claimant is disqualified for any week during which he receives or has received certain other types of remuneration such as wages in lieu of notice, dismissal wages, workmen's compensation for temporary partial disability, primary insurance benefits under old-age and survivors insurance, benefits under an employer's pension plan or under a supplemental unemployment benefit plan. In many States if the payment concerned is less than the weekly benefit, the claimant receives the difference; in other States no benefits are payable for a week of such payments regardless of the amount of payment (table 34). A few States provide for rounding the resultant benefits like payments for weeks of partial unemployment to even 50-cent or dollar amounts.

*Wages in lieu of notice and dismissal payments.*—The most frequent provision for disqualification for receipt of other income is for weeks in which the claimant is receiving wages in lieu of notice (29 States). In 10 of these States the claimant is totally disqualified for such weeks; in 19, if the payment is less than the weekly benefit amount, the claimant receives the difference. Thirteen States have the same provision for receipt of dismissal payments as for receipt of wages in lieu of notice. The State laws use a variety of terms such as dismissal allowances, dismissal payments, dismissal wages, separation allowances, termination allowances, severance payments, or some combination of these terms. In many States all dismissal payments are included as wages for contribution purposes after December 31, 1951, as they are under the Federal Unemployment Tax Act. Other States continue to define wages in accordance with the Federal Unemployment Tax Act prior to the 1950 amendments so as to exclude from wages, dismissal payments which the employer is not legally required to make. To the extent that dismissal payments are included in taxable wages for contribution purposes, claimants receiving such payments are not unemployed, or not totally unemployed,

**Table 34.—Effect on weekly benefits of receipt by claimants of various types of disqualifying income, 43 States**

State	Workmen's compensation payments (23 States) <sup>1</sup>	Old-age insurance benefits (10 States) <sup>2</sup>	Employers' pension plans (24 States)	Wages in lieu of notice (29 States)	Dismissal payments (19 States)
Alabama.....	R		R	D	D
Alaska.....				D	
Arizona.....					D
Arkansas.....			R		R
California.....	R	R	R	R	
Colorado.....	D		R	D	D
Connecticut.....			R		
Delaware.....	R		R	R	
Florida.....	D			D	
Georgia.....		R	R		
Idaho.....	R		R		
Illinois.....			R	R	R
Indiana.....	R	R	R	R	
Iowa.....	D		R		
Kansas.....	D				
Kentucky.....		R	R	R	
Louisiana.....	R	R	R	R	R
Maine.....	D		R	R	
Massachusetts.....			R	R	
Michigan.....			R	R	R
Minnesota.....	R	R	R	R	R
Missouri.....	R	R	R	R	R
Montana.....	D		(?)	D	D
Nebraska.....	R	R	R	D	R
Nevada.....				D	
New Hampshire.....	R			D	R
New Jersey.....				R	
North Carolina.....			R	R	D
North Dakota.....					
Ohio.....	R	R	R	R	R
Oklahoma.....		R	R		
Oregon.....			R		R
Pennsylvania.....			R	R	R
Rhode Island.....	R		R	R	
South Dakota.....	R		R	R	
Tennessee.....	D		R	D	
Texas.....	D	R	R	D	
Utah.....		R	R		
Vermont.....	R			R	
Virginia.....					R
West Virginia.....	D		R	D	D
Wisconsin.....	D	(?)	(?)		R
Wyoming.....				R	

\*R means weekly benefit is reduced by weekly prorated amount of the payment. D means no benefit is paid for the week of receipt.

<sup>1</sup> See text for types of payments listed as disqualifying income in States noted. In other States the disqualification or reduction applies only to payments for temporary partial disability.

<sup>2</sup> Weekly benefit is reduced if claimant retired from service of base-period employer (Alabama) and if claimant did not contribute to financing of retirement plan (Arkansas); if retirement payment is made under a plan to which contributions were made by chargeable employer (Indiana and Michigan), or by base-period employer (Colorado, Connecticut, Delaware, Louisiana, Pennsylvania, and West Virginia); if 50 percent or more of financing is provided by a base-period employer (Tennessee) or by any employer (Minnesota and South Dakota); under a plan to which any employer contributed substantially or which is supported in whole or in part by public contributions (North Dakota), or to which the employer contributed but only if the claimant is receiving old-age and survivors insurance (Maine). See text for details of Wisconsin provision.

<sup>3</sup> By regulation (Alaska and Arizona); by interpretation (North Carolina).

<sup>4</sup> In States noted, the deductible amount is: the portion provided by the employer (Missouri); the amount by which such portion exceeds the claimant's weekly benefit amount (Delaware); amount by which pension exceeds the maximum weekly benefit amount (Pennsylvania);  $\frac{1}{2}$  of the pension (Utah); and  $\frac{1}{2}$  of pension, if plan is partially financed by employer and the entire pension, if plan is wholly financed by employer (Illinois).

<sup>5</sup> Provision disregards retirement pay or compensation for service-connected disabilities or pension based on military service (Iowa, Nebraska, and Tennessee) and payments under Railroad Retirement Act or private plan solely financed by employee (Pennsylvania). Provision is applicable to government retirement plans except old-age and survivors insurance.

<sup>6</sup> Individual not ineligible for benefits if payment has no direct relationship to regular wages and is not allocated to any specific period (Arizona); excludes payments up to \$100 per week made to employees, permanently separated, upon their relinquishment of all accrued rights and benefits from services with separating employer (Pennsylvania); reduction as wages for a given week only when definitely allocated by the close of such week, payable to the employee for that week at the full applicable wage rate, and he has had due notice of such allocation (Wisconsin).

for the weeks concerned. Some States have so ruled in general counsel opinions and benefit decisions. Indiana, Minnesota, and Pennsylvania specifically provide for deduction of dismissal payments whether or not legally required.

*Workmen's compensation payments.*—Twenty-three State laws list workmen's compensation under any State or Federal law as disqualifying income. Nine disqualify for the week concerned; the other 14 States consider workmen's compensation deductible income and reduce unemployment benefits payable by the amount of the workmen's compensation payments. Nine States reduce the unemployment benefit only if the workmen's compensation payment is for temporary partial disability, the type of workmen's compensation payment that a claimant most likely could receive while certifying that he is able to work. The Alabama, Colorado, Connecticut, Illinois, and Iowa laws state merely "temporary disability." The Georgia law specifies temporary partial or temporary total disability. The Kansas provision specifies temporary total disability or permanent total disability, while the Massachusetts provision is in terms of partial or total disability but specifically excludes weekly payments received for dismemberment. The Louisiana and Texas laws are in terms of temporary partial, temporary total, or total permanent disability. The Minnesota law specifies any compensation for loss of wages under a workmen's compensation law; and Montana's provision is in terms of compensation for disability under the workmen's compensation or occupational disease law of any State. West Virginia's and Wisconsin's provisions specify temporary total disability.

*Retirement payments.*—Ten States consider some type of "benefits under title II of the Social Security Act or similar payments under any act of Congress" as disqualifying income (table 34). All these States provide for paying the difference between the weekly benefit and the weekly prorated old-age and survivors insurance payment.

Twenty-four States list payment under an employer's pension plan. The provisions usually apply only to retirement plans, but Nebraska and South Dakota include also employers' payments in case of disability. The laws specify the retirement payments are deductible or disqualifying when received under a pension described in terms such as "sponsored by and participated in" by an employer, "pursuant to an employment contract or agreement," or "in which an employer has paid all or part of the cost."

In 11 States the weekly benefit is reduced only if the claimant retired from the service of a base-period employer or if a base-period or chargeable employer contributed to the financing of the plan under which the retirement payment is made (footnote 2, table 34). In general, the weekly unemployment benefit is reduced by the amount of



the monthly retirement payment, prorated to the weeks covered by the payment; some States treat the prorated retirement payment as wages received in a week of unemployment and apply the formula for payment of partial benefits. In several States, only a portion of the retirement payment is deductible (footnote 4, table 34).

In Wisconsin a claimant is disqualified for weeks with respect to which he receives retirement payments under a group retirement system to which any employing unit has contributed substantially or under a government retirement system, if he left employment with the chargeable employer to retire before reaching the compulsory retirement age used by that employer; if the claimant left or lost his employment at the compulsory retirement age, all but \$5 of the weekly rate of the retirement payment is treated as wages.

Montana's provision on employer-financed pensions differs from those of other States in that the deduction is made from the wage credits on which benefits are based rather than from the weekly benefit payment. In this State the wage credits earned from an employer by whom the claimant was retired are not used in the computation of benefits due him after such retirement.

*Supplemental unemployment payments.*—A supplemental unemployment benefit plan is a system whereby, under a contract, payments are made from an employer-financed trust fund to his workers. The purpose is to provide the worker, while unemployed, with a combined unemployment insurance and supplemental unemployment benefit payment amounting to a specified proportion of his weekly earnings while employed. There are two major types of such plans: (1) Those under which the worker has no vested interest and is eligible for payments only if he is laid off by the company; and (2) those under which the worker has vested interest and may collect if he is out of work for other reasons, such as illness or permanent separation.

All States except New Hampshire, New Mexico, South Carolina, and South Dakota have taken action on the question of permitting supplementation in regard to plans of the Ford-General Motors type. Of the States that have taken action, all but Maine and Virginia permit supplementation without affecting unemployment insurance payments. In 37 States permitting supplementation, an interpretative ruling was made either by the attorney general (in 27 States) or by the employment security agency (in 10 States). In the other States<sup>10</sup> permitting supplementation, the State legislatures amended the unemployment insurance statutes. In Virginia supplementation is not permitted by an amendment to the statute; in Maine, by ruling of the attorney general.

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<sup>10</sup> Alaska, California, Colorado, Georgia, Hawaii, Indiana, Maryland, and Ohio.

Some supplemental unemployment benefit plans of the Ford-General Motors type provide for alternative payments or substitute private payments in a State in which a ruling not permitting supplementation is issued. These payments may be made in amounts equal to three or four times the regular weekly private benefit after 2 or 3 weekly payments of State unemployment insurance benefits without supplementation; in lump sums when the layoff ends or the State benefits are exhausted (whichever is earlier); or through alternative payment arrangements to be worked out, depending on the particular supplemental unemployment benefit plan.

*Relationship with other statutory provisions.*—The eight States <sup>11</sup> which have no provision for any type of disqualifying income and the much larger number which have only one or two types do not necessarily allow benefits to all claimants in receipt of the types of payments concerned. When they do not pay benefits to such claimants, they rely upon the general “able-and-available” provisions or the definition of unemployment. Some workers over 65 receiving primary insurance benefits under old-age and survivors insurance are able to work and available for work and some are not. In the States without special provisions that such payments are disqualifying income, individual decisions are made concerning the rights to benefits of claimants of retirement age. Many workers receiving workmen’s compensation, other than those receiving weekly allowances for dismemberment, are not able to work in terms of the unemployment insurance law. However, receipt of workmen’s compensation for injuries in employment does not automatically disqualify an unemployed worker for unemployment benefits. Many States consider that evidence of injury with loss of employment is relevant only as it serves notice that a condition of ineligibility may exist and that a claimant may not be able to work and may not be available for work.

Table 34 does not include the provisions in several States listing vacation pay as disqualifying income because many other States consider workers receiving vacation pay as not eligible for benefits; several other States hold an individual eligible for benefits if he is on a vacation without pay through no fault of his own. In practically all States, as under the Federal Unemployment Tax Act, vacation pay is considered wages for contribution purposes—in a few States, in the statutory definition of wages; in others, in official explanations, general counsel or attorney general opinions, interpretations, regulations, or other publications of the State agency. Thus a claimant receiving vacation pay equal to his weekly benefit amount would, by

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<sup>11</sup> District of Columbia, Hawaii, Maryland, Mississippi, New Mexico, New York, South Carolina, and Washington.

definition, not be unemployed and would not be eligible for benefits. Some of the explanations point out that vacation pay is considered wages because the employment relation is not discontinued, and others emphasize that a claimant on vacation is not available for work. Vacation payments made at the time of severance of the employment relationship, rather than during a regular vacation shutdown, are considered disqualifying income in some States only if such payments are required under contract and are allocated to specified weeks; in other States such payments, made voluntarily or in accordance with a contract, are not considered disqualifying income.